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**The Low-Income Housing Tax Credit Program
Process to facilitate Projects in Year 15**



By
Gary Mitchell

**S.C. State Housing Finance
and Development Authority**

May 13, 2004

Problem Definition

Tax credit regulations provide owners of Tax Credit housing projects the option to request that our agency find a buyer for their project who will continue to keep the housing affordable, or the owner can opt out of the program less than the required time described in the extended use agreement. No system is present to facilitate owners of Tax Credit housing projects who signed extended use agreements. If a procedure is in place, potential new owners will have the opportunity to acquire Tax Credit housing projects and keep the housing affordable. An initial overview of the Low Income Housing Tax Credit Program is provided as a foundation for this document. The resource materials that affect the extended use agreements are identified and the relevant compliance issues are summarized in this text.

Overview of the Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit Program was established as part of the Tax Reform Act of 1986. This housing program has led to the development of more than one million units of rental housing throughout the nation. The Low-Income Housing Tax Credit Program as administered by the South Carolina Housing Finance and Development Authority continues the development of rental housing for occupancy by low-income tenants. As administered, the program is responsible for the development of over 15,000 affordable rental units for the residents of South Carolina.

The Low Income Housing Tax Credit Program provides an annual credit against the federal income tax liability for the owners of qualified low-income housing projects. The values of Low-Income Housing Tax Credits are substantial. The annual credits are

not just a tax deduction from earned income, but a credit that results in a \$1.00 for \$1.00 reduction for Taxes payable to the Internal Revenue Service.

A newly constructed project that cost \$4,000,000 to build and is expected to have 60 percent of its units occupied by low-income tenants will have an eligible bases of \$4,000,000, an applicable fraction of 0.6, and a qualified basis of \$2,400,000 ($0.6 \times \$4,000,000$). If the applicable percentage for the building is 8.0 percent, the building will generate Housing Credits of \$192,000 ($0.8 \times \$2,400,000$) per year. Over ten years the building produces \$1,920,000 in housing credits.

The South Carolina Qualified Allocation plan describes the procedures and requirements for projects to be selected to receive an allocation of tax credits. South Carolina Housing Finance and Development Authority evaluates projects annually through the Qualified Allocation Plan to determine which projects will receive an allocation of Tax Credits. The basic requirement to remain qualified is that owners of projects receiving Housing Credits must maintain a portion of the units available in the project for low-income tenants.

Tenants with a household income less than or equal to 60% of the Area Median Gross Income, adjusted for household size are considered a low-income household. For example in South Carolina for the year 2003, a family of 3 in a household in Fairfield county with an income equal to or less than \$26,220 is categorized as low-income tenants. At a minimum 20% of the units in the project must be available for low-income households equal to or less than 50% of the Area Median Gross Income adjusted for household size. In addition, 40% of the units in a project can be available for low-income households equal to or less than 60% of the Area Median Gross Income adjusted for

household size. For example in a project with 50 units, either 20 units or 10 units must be set-aside for low-income tenants. Owners of projects receiving housing credits must restrict the amount of rent paid by low-income tenants to 30% of the Area Median Gross Income adjusted for household size. In South Carolina for 2003, a family of 3 in a household in Fairfield county with an income equal to or less than \$26,220 will pay rent less than \$655 for a 2 bedroom unit. Owners of Housing Credit projects must comply with the rent and income restrictions throughout a 15-year compliance period.

The majority owners of projects that received Low-Income Housing Tax Credits in 1990 and succeeding years signed agreements that lengthened the low-income occupancy requirements and the rent restrictions for at least an additional 15 years beyond the end of the compliance period.

Data Collection and Analysis

Information was extracted from the following resources and summarized to complete this text: Internal Revenue Service Form 8609; Internal Revenue Service code Section 42; Low Income Housing Tax Credit Project's Agreements as to Restrictive Covenants.

Internal Revenue Service Form 8609

A review of the Form 8609 disclosed that the end of the Compliance Period can be determined by examining part II item 1(a) and 5(a) of the Owner's completed form. The Date the last Building placed in service and the year the owner chose to begin the credit period are the significant dates to determine the end of the compliance period. If the owner elected to begin the credit period in item 5(a) the first year after the placed in

service date in item 1(a), the end of the compliance period will be 16 years after the date the building placed in service on December 31. If the owner elected to begin the credit period in item 5(a) the year the building placed in service in item 1(a), the end of the compliance period will be 15 years after the date the building placed in service on December 31.

Section 42 of the Internal Revenue Service Code

A project's extended use period can end 15 years after the end of the compliance period as allowed in Section 42(h)(6)(D). Any time after the fourteenth year of the compliance period the owner can make a written request to the South Carolina Housing Finance and Development Authority citing Section 42(h)(6)(E)(i)(II) and ask the agency to provide a buyer for the Low-Income building. Owners can terminate the extended use period one year after a request is made to the state agency to provide a buyer if the housing credit agency is unable to provide a qualified contract. The owner will need to provide the qualified contract price. An intricate determination of the Qualified Contract Price is described in Section 42(h)(6)(F).

A vacancy decontrol period must follow the end of the compliance period and termination of an extended use agreement as described in Section 42(h)(6)(E)(ii)(I). This guidance allows low-income tenants to remain in their units at restricted rents for three years after termination of the extended use agreement. Eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit is not permitted.

Any time after the end of the fifteenth year the property can be disposed of by tenants rights of first refusal in accordance with Section 42(i)(7). Tenants, resident

management corporation, qualified nonprofit organization, or government agency can purchase the property for a price not less than the amount of outstanding debt not incurred in the last 5 years. Federal, State, and local taxes can be included in the sales price.

Agreement as to Restrictive Covenants

A review of the Agreement as to restrictive covenants disclosed that any purchaser of the project must agree to continue the extended use of the project for low-income residents. Consequently, if the project is sold under the rights of first refusal, new owners are obligated to continue the extended use of the property for Low-income residents.

The Agreement as to restrictive covenants allows for termination of the extended use period, if after year 14, the owner submits a written request that Authority find a person to acquire the owners interest who will continue to operate the building as a qualified low income building. If the extended use period is terminated, the covenants call for rents to remain restricted for a period of three years and for no eviction of existing tenants without good cause.

The Agreement as to restrictive covenants allows the extended use to terminate on the date any building is acquired by foreclosure.

**Implementation Plan to facilitate Owners of Tax Credit Housing Projects Who Signed
Extended Use Agreements**

Action	Date
Eligible projects, property owners, addresses, identified for projects near the end of the 15-year compliance period. See page 8 and page 9 for documents titled Projects near the end of the 15-year compliance period.	May 30, 2004
Announcement of procedure and relevant information provided to Low Income House Tax Credit Property Owners of projects near the end of the 15-year compliance period. See page 10 for notification letter and page 11 for document titled Request to Find Buyer for Low Income Housing Tax Credit Project.	June 15, 2004
Information Technology provided instruction for Web page update to assist sellers and interested buyers who wish to purchase Low Income House Tax Credit Properties and continue to operate them as affordable housing. See page 12 for request memorandum to Richard Wicker, Director of ITC.	July 1, 2004
Announcements provided to S.C. Real Estate Commission, National Council of State Housing Agencies that Owners of Low Income Housing Tax Credit Projects who wish to sale their project to a buyer who will continue to operate the project as affordable housing will be included on our web page at www.sna.state.sc.us . See page 13 notification to Mr. Selman of the S.C. Real Estate Commission and page 14 notification to Mr. Hughes of the National Council of State Housing Agencies.	July 15, 2004
Produce response notification for a complete request to find Buyer Form received with all the required documentation. See page 15.	July 30, 2004
Produce response notification for an incomplete request to find Buyer Form received or a complete Form received without all the required documentation. See page 16.	August 15, 2004

Projects near the end of the 15 year compliance period

ID #	Project Name	Current Owner and address	# of LIHTC Units
90001	Willow Run 55 Harley Road Willston, S.C. 29853	Tillman Smith, General Partner P.O. Box 999 Chapin, S.C. 29036	24
90002	Woodland Park PO Box 566 St. George, S.C. 29477	Tillman Smith, General Partner P.O. Box 999 Chapin, S.C. 29036	24
90003	McCormick Manor 713 South Mine St. McCormick, S.C. 29325	Darnall Boyd P.O. Box 23589 Columbia, S.C. 29224-3589	24
90004	Glenfield Apartments, Phase II 604 Center St. Bennettsville, S.C. 29512	Darnall Boyd P.O. Box 23589 Columbia, S.C. 29224-3589	40
90005	Riverwinds Apartments 1330 Old Ferry Road Building 7 Camden, S.C. 29020	Darnall Boyd P.O. Box 23589 Columbia, S.C. 29224-3589	48
90006	Lockhart Lane Apartments 473 Lockhart Lane Gaffney, S.C. 29340	WNC 3158 Redhill Avenue Costa Mesa, C.A. 92626	32
90007	Shadowfield Apartments 301 Shadowfield Court Elloree, S.C. 29407	Shadowfield Apartments, ALP 807 Gervais St., Suite 301 Columbia, S.C. 29201	24
90008	Marlboro Place Apartments 813 Cheraw St. Bennettsville, S.C. 29512	Joan O. Harris P.O. Box 1249 Carolina Beach, N.C. 28428	24
90009	Melrose Lane Apartments 300 Sunset Street Great Falls, S.C. 29055	WWJ, LLC P.O. Box 23589 Columbia, S.C. 29224	24
90010	Magnolia Village Apartments 400 Spruce Street Walterboro, S.C. 29488	WWJ, LLC P.O. Box 23589 Columbia, S.C. 29224	24
90011	Fairridge Village 19 Easterling Court Denmark, S.C. 294042	WWJ, LLC P.O. Box 23589 Columbia, S.C. 29224	24
90012	Fairridge Lane 311 E. Pinckney Denamark, S.C. 29042	WWJ, LLC P.O. Box 23589 Columbia, S.C. 29224	24
90013	Walnut Village 300 Barfield St. Manning, S.C. 29102	WWJ, LLC P.O. Box 23589 Columbia, S.C. 29224	24
90015	Mill Pond Apartments 514 Stadium Dr. Dillon, S.C. 29536	Dillion Housing, LP P.O. Box 26405 Greensboro, N.C. 27404-6405	40
90016	Westwind Village 521 W. Montgomery Street Gaffney, S.C. 29341	Montgomery Street Housing Assoc. LP P.O. Box 26405 Greensboro, N.C. 27404-6405	44
90017	Kings Pointe Apartments 501 E. Main Street Kingstree, S.C. 29556	Williamsburg Housing, LP P.O. Box 26405 Greensboro, N.C. 27404-6405	32
90018	Raintree Apartments 500 Johnson St. Conway, S.C. 29563	West Conway Housing Associates, LP P.O. Box 26405 Greensboro, N.C. 27404-6405	40
90019	Lake View Apartments 109 E. First Avenue Lake View, S.C. 29563	Lake View Housing, LP P.O. Box 26405 Greensboro, N.C. 27404-6405	30

Projects near the end of the 15 year compliance period

90021	Cedar Terrace 200 McKenzie Road Dillon, S.C. 29536	Michael G. Williams P.O. Box 1146 Lancaster, S.C. 29721	40
90022	Twin Oaks Apartments 100 Mixon Street Allendale, S.C. 29810	Twin Oaks of Allendale, LP Sandord L. Seligman 7865 Southside Blvd Jacksonville, FL 32256	24
90023	Westbridge Apartments 100 B Avenue, #F1-2 West Columbia, S.C. 29169	Pen-Hill Co. LTD 1301 Gervais Street, Suite 524 Columbia, S.C. 29201	112
90025	Laurelwood Apartments 301 Reedy Fork Road Laurens, S.C. 29260	Gordon Blackwell 4325 Lake Bone Trail, Ste 212 Raleigh, N.C. 27607	62
90028	Holly Ridge 801 W Holly Street Hampton, S.C. 29924	Holly Ridge of Hampton, LP Sandford L. Seligman 7865 Southside Blvd Jacksonville, FL 32256	24
90029	Brittany Manor 296 Meansville Road Union, S.C. 29379	Union Elderly Housing, Ltd P.O. Box 20887 Tuscaloosa, AL 35402	78
90030	Country Manor 191 W.A. Reel Drive Edgefield, S.C. 29824	Edgefield Elderly Housing, Ltd P.O. Box 20887 Tuscaloosa, AL 35402	46
90032	Middle Street Apartments 1522, 1524, 1526 Middle Street Cayce, S.C.	Capital City Investments 15100 Old Cherokee Road, Suite F Lexington, S.C. 29072	3



South Carolina State Housing Finance and Development Authority

919 Bluff Road, Columbia, South Carolina 29201

Telephone: (803) 734-2000 TTY: (803) 734-2369

www.sha.state.sc.us

Charles I. Small
Chairman

Donald R. Hinson
Executive Director

June 15, 2004

Tillman Smith
General Partner
P.O. Box 999
Chapin, S.C. 29036

Project I.D.: 90001 Project Name: Willow Run

Dear Mr. Smith:

The South Carolina State Housing Finance and Development Authority would like to thank you for the years of helping to provide affordable housing for the citizens of South Carolina. A review of our records indicates that the project described above is near the end of the 15 year compliance period; however the Agreement as to Restrictive Covenants for this project includes an additional 15 year extended use period. As prescribed in the Agreement as to Restrictive Covenants, you can continue to operate the project for the additional 15 years.

Enclosed is a Request to Agency to Find Buyer for Low Income Housing Tax Credit Project. After the fourteenth year of the compliance period, you can provide a written request to the South Carolina Housing Finance and Development Authority citing Section 42(h)(6)(E)(i)(II) and ask our agency to provide a buyer. The determination of the Qualified Contract Price is described in Section 42(h)(6)(F).

In order for the request to be considered complete, all information on the Request to Find Buyer for Low Income Housing Tax Credit Project must be completed. The IRS form 8609 for each building in the project with Part I and Part II completed and signed and dated with the Taxpayer I.D. number must accompany the Request to Find Buyer for Low Income Housing Tax Credit Project.

The property name, the corresponding Qualified Contract Price, and the contact information will be posted on the S.C. State Housing Finance and Development Authority web page at www.sha.state.sc.us to assist interested buyers who wish to purchase and continue to operate the project as prescribed in the Agreement as to Restrictive Covenants.

You can terminate the Agreement as to Restrictive Covenants one year after the date on the notification from our office that your complete Request to Find Buyer for Low Income Housing Tax Credit Project has been received and all the information required has been provided, if a buyer does not purchase the property that agrees to operate the project as described in the Agreement as to Restrictive Covenants.

If the Agreement as to Restrictive Covenants is terminated, rents must remain restricted for a period of four years after the date on the notification from our office and no existing tenants can be evicted without good cause during that time period.

Thank you for your participation in the Low-Income Housing Tax Credit Program. If you have any questions please contact me at (803) 734-2173.

Sincerely,

Gary Mitchell
Director of Compliance Monitoring

Enclosure: Request to Find Buyer for Low Income Housing Tax Credit Project form

S.C. State Housing Finance and Development Authority
Request to Find Buyer for Low Income Housing Tax Credit Project

After completing all items on this form, please mail it to the Attention of Gary Mitchell
COMPLIANCE MONITORING Department
919 Bluff Road Columbia, S.C. 29201

Project I.D. Number: _____ Project Name: _____

This project is subsequent to the 14th year of the compliance period. As prescribed in Section 42(h)(6)(E)(i)(II), .I would like to request that the S.C. State Housing Finance and Development Authority provide a buyer for the project who wishes to continue to operate the project as prescribed in the Agreement as to Restrictive Covenants.

Accompanying this request is each IRS form 8609 for each building in the project with Part I, Part II completed, signed and dated with the Taxpayer Identification number.

The Qualified Contract Price for the project determined in accordance with Section 42(h)(6)(F) is

\$ _____.

Please type or print contact information for interested buyers of this project who wish to continue to operate the project as prescribed in the Agreement as to Restrictive Covenants.

Name: _____

Mailing Address: _____

City: _____ State: _____

Phone: Area Code _____ Number _____

Fax: Area Code _____ Number _____

E-mail address: _____

I agree that the information on this form will be posted on the S.C. State Housing Finance and Development Authority web page at www.shfd.scdhe.gov to assist interested buyers who wish to purchase and continue to operate the project as prescribed in the Agreement as to Restrictive Covenants.

Print Name of Representative of owner of the Project _____

Print Title of Representative of Owner of the Project _____

Signature of Representative of Owner of the Project _____

Signature Date _____

Memorandum

TO: Richard Wicker, Director of ITC

FROM: Gary Mitchell, Director of Compliance Monitoring

SUBJECT: Web Page Updates Needed

DATE: July 1, 2004

CC: Valarie Williams, Director of Development

Attached is a Request to Agency to Find Buyer for Low Income Housing Tax Credit Project. Owners can provide a written request to the South Carolina Housing Finance and Development Authority and ask our agency to provide a buyer.

To assist interested buyers who wish to purchase and continue to operate the project as affordable housing, The property name, the corresponding Qualified Contract Price, and the contact information must be posted on our web page at www.sha.state.sc.us as they are received.

The information on the page should be identified as a list of "Owners of Low Income Housing Tax Credit Projects who wish to sale their project to a buyer who will continue to operate the project as affordable housing in accordance with the Agreement as to Restrictive Covenants."



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Charles I. Small
Chairman

Donald R. Hinson
Executive Director

July 30, 2004

Robert Selman
South Carolina Real Estate Commission
P.O. Box 11847
Columbia, S.C. 29211-1847

Dear Mr. Selman:

After the fourteenth year of the compliance period, Owners of Low-Income Housing Tax Credit Projects can provide a written request to the South Carolina Housing Finance and Development Authority and ask our agency to provide a buyer.

To promote purchases of rental housing projects by interested owners who wish to operate them as affordable rental housing, contact information and property names provided by Owners who wish to sale their Low Income Housing Tax Credit Projects to owners who wish to continue to operate the project as affordable housing will be posted on our web page at www.sha.state.sc.us.

Your promotional efforts in providing this information to interested parties are appreciated. If you have any questions please contact me at (803) 734-2173.

Sincerely,

Gary Mitchell
Director of Compliance Monitoring



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www.sha.state.sc.us

Charles I. Small
Chairman

Donald R. Hinson
Executive Director

July 30, 2004

John Hughes
National Council of State Housing Agencies
444 N. Capital St.
NW Suite 438
Washington DC 20001

Dear Mr. Hughes:

After the fourteenth year of the compliance period, Owners of Low-Income Housing Tax Credit Projects can provide a written request to the South Carolina Housing Finance and Development Authority and ask our agency to provide a buyer.

To promote purchases of rental housing projects by interested owners who wish to operate them as affordable rental housing, contact information and property names provided by Owners who wish to sale their Low Income Housing Tax Credit Projects to owners who wish to continue to operate the project as affordable housing will be posted on our web page at www.sha.state.sc.us.

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Sincerely,

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Donald R. Hinson
Executive Director

July 30, 2004

Tillman Smith
General Partner
P.O. Box 999
Chapin, S.C. 29036

Project I.D.: 90001 Project Name: Willow Run

Dear Mr. Smith:

The South Carolina State Housing Finance and Development Authority has received your complete Request to Find Buyer for Low Income Housing Tax Credit Project above. All the required information has been provided.

The property name, the corresponding Qualified Contract Price, and the contact information you provided will be posted on the S.C. State Housing Finance and Development Authority web page at www.sha.state.sc.us to assist interested buyers who wish to purchase and continue to operate the project as prescribed in the Agreement as to restrictive covenants.

You can terminate the Agreement as to restrictive covenants one year after the date on this notification if a buyer does not purchase the property that agrees to operate the project as described in the Agreement as to restrictive covenants. If the Agreement as to restrictive covenants is terminated, rents must remain restricted for a period of four years after the date on this notification and no existing tenants can be evicted without good cause during this time period.

The South Carolina State Housing Finance and Development Authority would like to thank you for the years of helping to provided affordable housing for the citizens of South Carolina.

If you have any questions please contact me at (803) 734-2173.

Sincerely,

Gary Mitchell
Director of Compliance Monitoring



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Charles I. Small
Chairman

Donald R. Hinson
Executive Director

August 15, 2004

Tillman Smith
General Partner
P.O. Box 999
Chapin, S.C. 29036

Project I.D.: 90001 Project Name: Willow Run

Dear Mr. Smith:

Your request to The South Carolina State Housing Finance and Development Authority to find a buyer for your Low Income Housing Tax Credit Project above is not complete, or all the required information has not been provided.

Enclosed is a Request to Agency to Find Buyer for Low Income Housing Tax Credit Project. In order for the request to be considered complete, all information on the Request to Find Buyer for Low Income Housing Tax Credit Project must be completed. The IRS form 8609 for each building in the project with Part I and Part II completed and signed and dated with the Taxpayer I.D. number must accompany the Request to Find Buyer for Low Income Housing Tax Credit Project.

The property name, the corresponding Qualified Contract Price, and the contact information you provided will be posted on the S.C. State Housing Finance and Development Authority web page at www.sha.state.sc.us to assist interested buyers who wish to purchase and continue to operate the project as prescribed in the Agreement as to Restrictive Covenants.

The South Carolina State Housing Finance and Development Authority would like to thank you for the years of helping to provided affordable housing for the citizens of South Carolina.

If you have any questions please contact me at (803) 734-2173.

Sincerely,

Gary Mitchell
Director of Compliance Monitoring

Evaluation Method

This text includes a method to facilitate owners who signed extended use agreements. A straightforward procedure is presented for owners who no longer wish to participate in the program so that they can opt out in accordance with regulations, and it contains a process to alert potential new owners so they can acquire projects from those owners who no longer wish to participate.

As owners who no longer wish to participate in the program exit or sale projects, the success of this process will be measured by the number units that continue in the Low Income Housing Tax Credit program.